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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,888	05/18/2006	Didier Courtois	3712036-00734	8588
29157	7590	03/25/2010		
K&L Gates LLP P.O. Box 1135 CHICAGO, IL 60690			EXAMINER KETTER, JAMES S	
			ART UNIT	PAPER NUMBER
			1636	
			NOTIFICATION DATE	DELIVERY MODE
			03/25/2010 ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

Office Action Summary

Application No.

10/595,888

Applicant(s)

COURTOIS ET AL.

Examiner

James S. Ketter

Art Unit

1636

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-17 is/are allowed.
- 6) ☒ Claim(s) 18, 19 and 21 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Upon reconsideration, the new grounds of rejection are deemed applicable to claims 18 and 19. The delay in setting forth these rejections is regretted.

Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 15-17 are allowed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Parks (of record).

Claim 18 is drawn to a bioreactor for culturing living cells in a liquid medium comprising: at least one stationary non-flexible plastic bag enclosing the cells and liquid culture medium, and at least one means for introducing single large gas bubbles at a bottom of the vessel, the single large bubble width from 50 to 99% of the tank width. Claim 21 is drawn to a bioreactor for culturing living cells in a liquid medium comprising: at least one stationary tank enclosing the cells and liquid culture medium, and at least one means for introducing single large gas bubbles at a bottom of the vessel, the single large bubble width from 50 to 99% of the tank

width, wherein the width of the single large bubble is 60% to 99% of the tank width. (The scope of this claim is unclear, with respect to the “non-flexible plastic bag” and with respect to the minimum width of the bubble. See the rejection under 35 USC § 112, second paragraph, below.)

Parks was described on record previously. Claim 18 may be construed such that the “non-flexible plastic bag” is a rigid plastic container, e.g., a plastic tank. At page 4 of Park, line 14, it is taught that the tank may be of plastic. Claim 21 can be construed as reciting a bubble that is 50% of the tank width.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parks (of record).

Claim 19 is drawn to a bioreactor for culturing living cells in a liquid medium comprising: at least one stationary tank enclosing the cells and liquid culture medium, and at least one means for introducing single large gas bubbles at a bottom of the vessel, the single large bubble width from 50 to 99% of the tank width, wherein the stationary tank is surrounded by a rigid outside container.

Parks was described previously on the record. Parks differs from the claimed invention in not teaching a rigid outside container surrounding the stationary tank. However, it would have been obvious to one of ordinary skill in the art to have housed the bioreactor in a building, motivated by the well-known purpose of protecting the device and its operators from the elements. A building would read on a rigid outside container surrounding the stationary tank.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites a “non-flexible plastic bag”. However, the term “bag” implies flexibility, and as such, one of skill in the art would not have been clear how to envision this component.

Claim 21 recites two different size ranges of the bubble, i.e., “the single large bubble width from 50 to 99% of the tank width, wherein the width of the single large bubble is 60% to 99% of the tank width.” As such, the metes and bounds of the claim are confusing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Ketter whose telephone number is 571-272-0770. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Christopher Low can be reached on 571-272-0951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSK
24 March 2010

/James S. Ketter/
Primary Examiner, Art Unit 1636